

UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA
(READING)

IN RE:

**Richard Anthony Rutgers
Elva Mae Rutgers
Debtors**

CHAPTER 13

CASE NO.: 19-17402-pmm

HEARING DATE: March 30, 2021

TIME: 10:00am

LOCATION: 4th Floor

MOTION OF WILMINGTON TRUST, NATIONAL ASSOCIATION, NOT IN ITS INDIVIDUAL CAPACITY, BUT SOLELY AS TRUSTEE FOR MFRA TRUST 2016-1, FOR RELIEF FROM THE AUTOMATIC STAY PROVISIONS OF 11 U.S.C. § 362(A) TO PERMIT MOVANT TO COMMENCE OR CONTINUE FORECLOSURE PROCEEDINGS ON 5120 CURLY HORSE DRIVE, CENTER VALLEY, PA 18034

AND NOW COMES, WILMINGTON TRUST, NATIONAL ASSOCIATION, NOT IN ITS INDIVIDUAL CAPACITY, BUT SOLELY AS TRUSTEE FOR MFRA TRUST 2016-1 (“Movant”), by and through its attorneys, Hill Wallack LLP, and respectfully represents as follows:

1. This Motion (the “Motion”) is filed by Movant for relief from the automatic stay provisions of 11 U.S.C. §362(a) to permit Movant to continue its foreclosure on real property located at 5120 Curly Horse Drive, Center Valley, PA 18034 (the “Mortgaged Premises”).

2. On or about April 19, 2006, Richard Rutgers and Elva Rutgers (“Borrowers”) executed and delivered to World Savings Bank, FSB a Promissory Note (“Promissory Note”) in the principal amount of \$452,979.00. A true and correct copy of the Promissory Note is attached hereto and made a part hereof as Exhibit “A.”

3. To secure the obligations under the Promissory Note, Borrowers granted World Savings Bank, FSB a valid, enforceable, and recorded first lien and mortgage (the “Mortgage”) on the Mortgaged Premises, all of the terms of which are incorporated herein by reference as if fully set forth at length, which Mortgage was thereafter recorded in the Lehigh County Recorder of Deeds Office on May 3, 2006 in 7338703. A true and correct copy of the Mortgage is attached hereto and made a part hereof as Exhibit “B.”

4. Movant is the current mortgagee by virtue of an Assignment of Mortgage. A true and correct copy of the full recorded Assignment of Mortgage is attached hereto and made apart hereof as Exhibit "C."

5. Borrowers entered into multiple loan modifications agreements. A true and correct copy of all loan modification agreements are attached hereto and made apart hereof as Exhibit "D".

6. On November 26, 2019, Debtors filed petition for relief under Chapter 13 of the United States Bankruptcy Code.

7. The Debtors in their Amended Schedules filed December 22, 2019 states that the current value of the Mortgaged Premises is \$512,000.00, after consideration of cost of sale.

8. The current monthly payment on the Mortgage is \$3,700.94.

9. On or about December 22, 2019, Debtors filed their Amended Chapter 13 Plan. The plan proposed for Debtors to pay post- petition payments directly to Movant.

10. The Debtors are currently in arrears post-petition for their failure to pay the post-petition payments due October 1, 2020 through February 1, 2021, in the amount of \$18,504.70 (\$3,700.94 x 5 months) and payment due March 1, 2021, in the amount of \$3,731.24 (\$3,731.24 x 1) less a suspense balance in the amount of \$658.15, for a total amount due of \$21,577.79.

WHEREFORE, WILMINGTON TRUST, NATIONAL ASSOCIATION, NOT IN ITS INDIVIDUAL CAPACITY, BUT SOLELY AS TRUSTEE FOR MFRA TRUST 2016-1 respectfully requests that this Court enter an Order granting relief from the automatic stay provisions of 11 U.S.C. § 362(a) to allow Movant to proceed in its foreclosure of the Mortgaged Premises, to name the Debtors in the foreclosure suit solely for the purpose of foreclosing their interests in the Mortgaged Premises, and to allow Movant, or any other purchaser at the Sheriff's Sale, to take any legal action necessary to gain possession of the Mortgaged Premises.

Respectfully submitted,

By: /s/ Angela C. Pattison
Angela C. Pattison, Esq.,
Attorney ID 307611
Hill Wallack, LLP
1415 Route 70 East, Suite 309
Cherry Hill, NJ 08034
Telephone 856-616-8086
Facsimile 856-616-8081
Email: apattison@hillwallack.com